



ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301

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HEALTH AFFAIRS

FINAL DECISION: Appeal  
OASD(HA) Case File 09-79

The Hearing File of Record and the Hearing Officer's RECOMMENDED DECISION (along with the Memorandum of Concurrence from the Director, OCHAMPUS) on OASD(HA) Appeal Case No. 09-79 have been reviewed. The amount in dispute in this case is \$2,000.00. This hearing was conducted on the written record only; no oral testimony was presented. It was the Hearing Officer's recommendation that the initial determination to deny CHAMPVA benefits for the dental care rendered from March 1975 to May 1976 be upheld (i.e., reconstruction/replacement of missing teeth). It was his finding that the dental services in dispute did not constitute adjunctive dental care as set forth in applicable Army Regulation AR 40-121. (Although the Hearing Officer also rendered a decision on the dental services rendered from 1 April 1974 to 18 November 1974, this was in error as that care was not appealable because it was rendered prior to the appealing party's CHAMPVA eligibility effective date.)

The Principal Deputy Assistant Secretary of Defense (Health Affairs) Acting as the authorized designee for the Assistant Secretary, concurs with this recommendation and accepts it as the FINAL DECISION.

PRIMARY ISSUE IN DISPUTE

The primary issue in dispute in this case is whether the dental care for which CHAMPVA benefits were denied constituted "adjunctive dental care." By law CHAMPUS benefits for dental care are limited (and therefore, by agreement, CHAMPVA benefits are also so limited). Chapter 55, Title 10, United States Code, Section 1079 (a)(1) states "... with respect to dental care, only that care required as necessary adjunct to medical or surgical treatment may be provided."

The implementing regulation (applicable at the time the disputed dental care was rendered) specified covered dental care to be that dental care required as a necessary adjunct

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in the treatment and management of a medical or surgical condition other than dental. (Reference: Army Regulation AR 40-121, Chapter 1, Section 5-2(j).) The regulation further stated, "... so the relationship between the primary [medical] condition and the requirement for dental care in the treatment of the medical condition is clearly shown [emphasis added]. (Reference: Army Regulation AR40-121, Chapter 1, Section 1-e(e).)

The appealing party raised several points in pursuing her position that the disputed dental care did, in fact, qualify as "adjunctive." However, it is the finding of the Principal Deputy Assistant Secretary of Defense (Health Affairs) that the Hearing Officer's Recommended Decision was a proper one based on the evidence presented. It is noted for the record that although the conclusion was proper, the rationale was, in part, directed at factors not pertinent to the primary issue. To ensure that the appealing party fully understands the bases upon which the initial denial of CHAMPVA benefits has been reaffirmed, each of the points she presented is addressed in this FINAL DECISION.

1. Diabetes Mellitus. First it was claimed that the presence of Diabetes Mellitus since 1972 met the requirement of a specific medical condition currently under treatment. The Hearing File of Record contains a statement from the appealing party's physician that she did, in fact, have Diabetes Mellitus. However, this same statement further indicated the condition was in "control" through medication and diet. The factual presence of a medical condition does not, in and of itself, automatically qualify dental care as "adjunctive." A direct relationship between the medical condition and dental care must be established that supports the requirement for the dental care in the treatment and management of the medical condition. Such evidence was not presented in this case. (Reference: AR 40-121, Chapter 1, Section 1-2(e) and Section 5-2(j).)
2. Gingivitis: Relationship to Diabetes Mellitus. Second it was claimed that the gingivitis condition, a inflammation of the gum tissue (usually caused by improper dental hygiene) was the result of Diabetes Mellitus and therefore any dental care related to the condition or its sequelae qualified as adjunctive dental care. This condition

occurred prior to the appealing party's effective date under CHAMPVA; however it is related to the disputed dental care because it was also implied that the gingivitis was the cause of the loss of some teeth. Although the attending physician's statement indicated that the existence of Diabetes Mellitus "may have contributed" to the gingivitis, there was no evidence submitted to support that position except this noted personal comment. Further, even if such documentation had been presented, in the absence of any specific evidence that the gingivitis directly affected the management of the diabetic condition, gingivitis is considered a "dental only" condition and therefore any related dental care would not be eligible for consideration under the "adjunctive" provision. (Reference: Army Regulation AR 40-121, Chapter 1, Section 1-2(e).)

3. Missing Teeth. Third it was claimed that the reconstruction and replacement of missing teeth was "adjunctive" because the teeth were lost [it was implied] due to the above described gingivitis which, in turn, was caused by the Diabetes Mellitus. The Hearing File of Record contains no information relating to the number of teeth missing, the position of the missing teeth, the circumstances related to their loss/removal or how long they had been missing. Even if such evidence had been submitted, reconstruction/replacement of the teeth for that reason was not generally considered "adjunctive." In order to be considered for benefits, a direct relationship to the treatment and management of a primary medical condition would have to be shown which was not done in this case. The fact that there were "missing" teeth in no way affected the treatment and management of the Diabetes Mellitus. (Reference: Army Regulation AR 40-121, Chapter 1, Section 5-2(j).)
4. Improved General Health. Lastly, it was claimed that the dental care in dispute was not routine in nature nor limited only to improvement of the appealing party's general health. However, the evidence submitted established no direct relationship between the dental care and the Diabetes Mellitus; instead the care related to a dental only condition. In the absence of any specific evidence to the contrary, it can only be concluded that the March 1975-May 1976 dental care

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(reconstruction/replacement of missing teeth) was essentially routine in nature, primarily contributing to the general health of the appealing party. Again, this would not, in itself, qualify dental care for consideration as "adjunctive". There must be a specific primary [medical] condition and the dental care must be necessary to treat and manage that condition. The applicable regulation states, "Dental Care to improve the general health of the patient is not necessarily adjunctive dental care [emphasis added] (Reference: Army Regulation AR 40-121, CHAPTER 1, Section 1-2(e).)

5. Dental Condition Only. Despite the claims to the contrary by the appealing party, the only condition being treated by the reconstruction/replacement was a dental condition--i.e., missing teeth. Again, There was no indication that the presence of missing teeth in anyway affected the Diabetes Mellitis. Dental care related to a "dental only" condition does not qualify for consideration under the "adjunctive" provisions regardless of any other circumstances which may be present. (Reference: Army Regulation AR 40-121, Chapter 1, Section 5-2(j).)

There was no evidence presented in the Hearing File of Record which supported the appealing party's claim that the disputed dental care rendered during the period March 1975 to May 1976 (mouth reconstruction/replacement of teeth) met the definition of "adjunctive dental care." (Reference: Army Regulation AR 40-121, CHAPTER 1, Section 1-2(e).)

#### SECONDARY ISSUE

Preauthorization. Although CHAMPVA eligibility became effective on December 16, 1974, the appealing party denies any notification of this event until "late" in 1975. Preauthorization requirements were therefore not fulfilled. Since she was unaware of the requirements at the time the dental care commenced, or in fact unaware of her eligibility for CHAMPVA benefits, preauthorization in this case was not possible and thus not a legitimate issue for appeal consideration--at the Contractor, Agency or Hearing Officer level--and should not have been considered. However, the error relative to preauthorization did not impact on this FINAL DECISION since at all levels of appeal the substantive issue of "adjunctive" dental care was also addressed. It is not

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denied, however, that continued mention of preauthorization requirements no doubt did serve to confuse the appealing party, which is unfortunate.

RELATED ISSUE

1974 Periodontal Therapy: Nonappealable. The periodontal therapy performed during the period 1 April 1974 to 18 November 1974 cannot be considered as an appealable issue since these services were rendered prior to the appealing party's 16 December 1974 effective date as a CHAMPVA beneficiary. Therefore, whether these dental services qualified as "adjunctive" is moot, as is the question of the alleged emergency nature of the care. Also the timeliness of the claim submission was not pertinent considering that the services were performed prior to the effective date of CHAMPVA eligibility. The Dental Contractor, OCHAMPUS and the Hearing Officer were in error in considering this period of dental care as part of the matter in dispute.

SUMMARY.

This FINAL DECISION in no way implies that the appealing party did not need the dental care or that the care was not beneficial and appropriate. It only confirms that the dental services in dispute do not qualify as "adjunctive" as permitted by law and regulation and, therefore, cannot qualify for benefit consideration under CHAMPVA.

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Our review of this case confirms that the appealing party has been afforded full due process in her appeal. Issuance of this FINAL DECISION is the concluding step in the CHAMPUS/CHAMPVA appeals process. No further administrative appeal is available.

  
Vernon McKenzie  
Principal Deputy Assistant Secretary  
of Defense (Health Affairs)